

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL CACOPERDO,

Civ. Act. No.: 10-civ-7847 (RPP)

Plaintiff,

-against-

HARTFORD LIFE INSURANCE COMPANY,

Defendant.

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**DECLARATION OF
MICHAEL H. BERNSTEIN**

DOCUMENT
ELECTRONICALLY FILED

MICHAEL H. BERNSTEIN, being duly sworn, deposes and states:

1. I am a member of the firm of Sedgwick LLP, attorneys for defendant Hartford Life Insurance Company (“Hartford”). As such, I am fully familiar with the facts and circumstances in this matter.

2. I submit this Declaration and the exhibits annexed hereto in support of Hartford’s motion for an Order pursuant to Rule 56 of the Federal Rules of Civil Procedure granting summary judgment dismissing plaintiff Michael Cacoperdo’s (“Cacoperdo”) Complaint in its entirety and for such other and further relief as this Court may deem just and proper.

3. Cacoperdo filed his Summons and Complaint, annexed hereto as Exhibit “D,” in the United States District Court for the Southern District of New York on October 14, 2010, alleging a claim for continuing long-term disability benefits and attorney’s fees under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §1001, *et seq.* against Hartford.

4. Hartford timely appeared in the action and served its Answer To Complaint on January 11, 2011. A true and correct copy of the Answer is annexed hereto as Exhibit “E.”

5. On March 11, 2011, Cacoperdo filed his Amended Complaint, annexed hereto as Exhibit “F.” The amended complaint asserted two additional counts, one against Defendant Medical

Evaluation Specialists, Inc. d/b/a MES Solutions (“MES”), and the other cause of action was asserted against Defendant MLS National Medical Evaluations, Inc. (“MLS”).

6. After Hartford fully briefed and argued its Motion to Dismiss Cacoperdo’s Amended Complaint, the Court issued its Opinion and Order dated October 5, 2011, which granted MLS and Hartford’s Motion to Dismiss Plaintiff’s claims against MLS and MES and ruling that Plaintiff may proceed on his first cause of action against Hartford. A true and correct copy of this Court’s Order is annexed hereto as Exhibit “G.”

7. By Stipulated Amended Scheduling Order, dated November 1, 2011, the parties agreed that Cacoperdo would withdraw his Amended Complaint and proceed on his original first cause of action against Hartford as stated in the initial Complaint and that Hartford was not required to file an Answer to the Amended Complaint. A true and correct copy of the Amended Scheduling Order is attached hereto as Exhibit “H.”

8. Discovery was completed on April 13, 2012 in accord with the Court’s Memo Endorsed Order dated February 23, 2012 (Doc. No. 60).

9. Pursuant to the scheduling order proposed by the parties and endorsed by the Court on April 6, 2012, the parties’ competing Motions for Summary Judgment and supporting papers are being filed by June 1, 2012. The parties’ answering papers in opposition are due to be filed on June 22, 2012, and the parties’ reply papers are due to be filed on July 12, 2012. Hartford’s motion is timely filed in accord with the Court’s endorsed scheduling order.

Dated: New York, New York
June 1, 2012

I declare under penalty of perjury that the foregoing is
true and correct.

s/

MICHAEL H. BERNSTEIN (MB 0579)

CERTIFICATE OF SERVICE

I, DANIEL M. MEIER, hereby certify and affirm that a true and correct copy of the attached **DECLARATION OF MICHAEL H. BERNSTEIN** was served **via ECF** and **via FedEx** on June 1, 2012, upon the following:

Jason A. Newfield, Esq.
Frankel & Newfield, P.C.
585 Stewart Avenue - Suite 312
Garden City, New York 11530

Dated: New York, New York
June 1, 2012

s/_____
DANIEL M. MEIER (DM 2833)